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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,389	12/31/2003	Tony Albrecht	5367-65	8976

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COHEN, PONTANI LIBERMAN & PAVANE
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EXAMINER

LE, THAO X

ART UNIT	PAPER NUMBER
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2814

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,389

Applicant(s)

ALBRECHT ET AL.

Examiner

Thao X. Le

Art Unit

2814

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 Sept. 2005 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6-7, 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6583443 to Chang et al.

Regarding claim 1, Chang discloses a light-emitting diode chip in fig. 4c having an epitaxial semiconductor layer sequence 16/18/30/22/24/44 with an active zone, column 3 line 47, that emits electromagnetic radiation and an electrical contact structure comprising a radiation-transmissive electrical current expansion layer 44, col. 6 line 3,

which contains ZnO, column 5 line 31, and an electrical connection layer 48B, column 6 line 11, wherein the current expansion layer 44 is applied directly on a cladding layer 22, col. 3 line 56, of the semiconductor layer and comprises a window, in which the connection layer 48B is applied directly on said cladding layer 22 of the semiconductor layer sequence, the connection layer 48B is electrically conductively connected to the current expansion layer 44, and wherein junction between the connection layer 48B and the cladding layer 22, during the operation of the light-emitting diode chip, is not electrically conductive or is only poorly electrically conductive such that an entire, or virtually the entire, current from the connection layer 48B flows via the current expansion layer 44 into the semiconductor layer sequence, col. 6 lines 16-18.

Although Chang shows the connection layer 48B contacts the semiconductor etch stop layer 24. However, the layer 24 is optional and that cladding layer 22 would be in contact with the connection layer 48B as disclosed by Chan in col. 4 lines 30-35. Furthermore, the layer 24 of Chan can also be interpreted as a cladding layer by the plain meaning of the word "cladding" that is defined as "something that covers or overlays" or "metal coating bonded to a metal core". For this reason, Chan would anticipate the claim limitation.

Regarding claim 2, Chang discloses the light-emitting diode chip according to claim 1, wherein the connection layer 48B comprises a metal, column 6 line 11, and the junction between the connection layer 48B and the cladding layer 22 comprises an electrical potential barrier, col. 6 line 17.

Regarding claims 3-4 and 22, Chang discloses the light-emitting diode chip according to claim 1, the sheet resistance of intermediate layers of the semiconductor layer sequence between the active zone and the electrical contact structure is greater than or equal to $200 \Omega / \text{sq}$, wherein the current expansion layer 44 comprises a sheet resistance of less than or equal to $190 \Omega / \text{sq}$ or $30 \Omega / \text{sp}$.

Although the prior art does not specially disclose the sheet resistance limitation, this feature is seen to be inherently teaching of that limitation because Chang discloses the material and structure substantially identical to claimed invention, claimed properties or functions are presumed to be inherent. *In re Best*, 195 USPQ 430, 433 (CCPA 1977).

Regarding claim 6, Chang discloses the light-emitting diode chip according to claim 1 wherein the semiconductor layer sequence is based on $\text{In}_x\text{Ga}_y\text{Al}_{1-x-y}\text{P}$ where $0 \leq x \leq 1$, $0 \leq y \leq 1$ and $x + y \leq 1$, col. 3 lines 46-67 and col. 4 lines 1-15.

Regarding claims 7 and 23, Chang discloses the light-emitting diode chip according to claim 1 wherein the lading layer 22 comprises $\text{Al}_x\text{Ga}_{1-x}\text{As}_y\text{P}_{1-y}$ where $0 \leq x \leq 1$, $0 \leq y \leq 1$, col. 4 line 15.

Regarding claims 12-13, Chang discloses the light-emitting diode chip according to claim 1 wherein the current expansion layer 44 has a thickness between 100 and 600 nm, col. 5 line 33, wherein the current expansion layer 44 has a thickness corresponding to about a quarter of a wavelength of a radiation emitted by the light-emitting diode chip.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6583443 to Chang et al. in view of US 5717226 to Lee et al.

Regarding claim 5, Chang discloses the light-emitting diode chip according to claim 1, wherein the connection layer 48B which is remote from the semiconductor layer sequence so that the junction between the connection layer 48B and the current expansion layer 44 is electrically conductive in this region, fig. 4C.

But Chan does not disclose the connection layer 48B extends beyond the window on a side of the current expansion layer 44 so as to partly cover the current expansion layer 44.

However, Lee discloses the light-emitting diode chip in fig. 3C wherein the connection layer 36 extends beyond the window on a side of the current expansion layer and is applied to a front side surface of the current expansion layer 35. At the time the invention was made; it would have been obvious to one of ordinary skill in the art to use connection layer teaching of Lee with Chang's device, because such particular claimed configuration is anything more than one of numerous configurations a person of ordinary skill in the art would find obvious for the purpose of providing mating surfaces or connection. In re Dailey 149 USPQ 47, 50 (CCPA 1966). See also Glue Co. v. Upton 97 US 3,24 (USSC 1878).

Regarding claims 9, 24, Chang does not disclose the light-emitting diode chip wherein the layer cladding layer 22 is doped with a dopant concentration of between about 1×10^{18}

However, Lee discloses the light-emitting diode chip wherein the layer cladding layer 33 is doped with a dopant concentration of between about 1×10^{18} , column 1 line 46. Accordingly, it would have been obvious to one of ordinary skill in art to use the doping teaching of Lee in the range as claimed, because it has been held that where the general conditions of the claims are discloses in the prior art, it is not inventive to discover the optimum or workable range by routine experimentation. See In re Aller, 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955).

Regarding claim 8, Chang does not disclose the light-emitting diode chip according to claim 7 wherein the cladding layer is p-doped with at least one of a the dopant Zn and C.

However, Lee discloses layer 33 is P-type cladding layer. At the time the invention was made; it would have been obvious to one of ordinary skill in the art to understand that Zn would be a typical material used in the art as a dopant of p-type for cladding layer, see Wang (6469324) column 2 lines 26, Sasaki (6074889) column 1 lines 48-51, or Takeoka (5789773) column 1 line 61.

7. Claims 10-11 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6583443 to Chang et al. in view of US 6346719 to Udagawa et al.

Regarding to claims 10-11, 25-26, Chang does not disclose the current expansion layer 44 comprises Al; and wherein the proportion of Al between 0% and 10% and 1% and 3%.

However, Udagawa discloses the light-emitting diode in fig. 6 wherein the expansion layer 406 comprises Al, column 8 line 56, wherein the proportion of Al between 0% and 10%, column 8 line 57. At the time the invention was made; it would have been obvious to one of ordinary skill in the art to use the ZnO:Al layer 406 teaching of Udagawa with Chang's device, because Al doped ZnO would have created a specific resistance level for layer ZnO as taught by Udagawa, column 8 line 59.

8. Claims 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6583443 to Chang et al. in view of JP 2001036131 to Udagawa.

Regarding claims 14-21, Chang does not disclose the light emitting diode wherein the current expansion layer is provided with watertight material such that the current expansion layer is adequately protected against moisture, wherein watertight material is applied to free areas of the contact layer, wherein watertight material is applied to all the free areas of the contact layer, wherein the watertight material is a dielectric that is transparent to an electromagnetic radiation emitted by the light-emitting diode chip, wherein the dielectric comprises one or more of the substances Si_xN_y , SiO , SiO_2 , Al_2O_3 and SiO_xN_y , wherein a refractive index of the watertight material is less than the refractive index of the current expansion layer and is adapted so as to significantly minimized reflections of the radiation emitted by the light-emitting diode chip at interfaces with respect to the watertight material, wherein the current expansion layer has a thickness corresponding to about an integer multiple of half the wavelength of a radiation emitted by the light-emitting diode chip, and the watertight material has a thickness corresponding to about a quarter of said wavelength, wherein the thickness of the watertight material is in a range of between 50 and 200 nm inclusive.

However, Udagawa discloses the light emitting diode in fig. 1 wherein the current expansion layer 107 is provided with watertight material 108 in such a way that it is adequately protected against moisture, wherein watertight material is applied to free areas of the contact layer, wherein watertight material 108 is applied to all the free areas of the contact layer, wherein the watertight material 108 is a dielectric that is transparent to an electromagnetic radiation emitted by the light-emitting diode chip, wherein the dielectric comprises one or more of the

substances Si_xN_y , SiO , SiO_2 , Al_2O_3 and SiO_xN_y , see abstract, wherein the refractive index of the watertight material is less than the refractive index of the current expansion layer and is adapted to the greatest possible extent in particular for a minimization of reflections of the radiation emitted by the light-emitting diode chip at interfaces with respect to the watertight material, see abstract, wherein the current expansion layer 107 has a general thickness, wherein the thickness of the watertight material 108 has a general thickness. At the time the invention was made; it would have been obvious to one of ordinary skill in the art to use the watertight layer teaching of Udagawa with Chang's device, because it would have provided the protection and improved light emitting efficiency as taught by Udagawa, see abstract.

With respect to the thickness, it would have been obvious to one of ordinary skill in art to use the general thickness teaching of Udagawa with Chang's device in the range as claimed, because it has been held that where the general conditions of the claims are disclosed in the prior art, it is not inventive to discover the optimum or workable range by routine experimentation. See *In re Aller*, 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955).

Response to Arguments

9. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao X. Le whose telephone number is (571) 272-1708. The examiner can normally be reached on M-F from 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M. Fahmy can be reached on (571) 272 -1705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'Thao X. Le', with a long horizontal line extending to the right.

Thao X. Le
19 April 2006